

PTO 01 OCT 2004
20/509869

PTO/SB/21 (08-03)

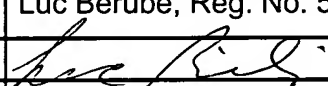
Approved for use through 07/31/2006. OMB 0651-0031

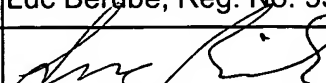
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	not yet assigned	
	Filing Date	not yet assigned	
	First Named Inventor	BEAUDRY, Pierre	
	Art Unit		
	Examiner Name		
Total Number of Pages in This Submission	163	Attorney Docket Number	9-15186-21US

ENCLOSURES (Check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input checked="" type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input checked="" type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Cover letter (2 pages), combined Declaration and Power of Attorney (2 signatures), Application Data Sheet,
<input type="checkbox"/> Remarks		Petition to Revive with Statement and Report (6 pages); Transmittal letter PTO 1390, Patent Application Fee Determination Record; Copy of PCT Request, Copy of Form PCT/IB/304.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	Luc Bérubé, Reg. No. 55,968
Signature	
Date	September 30, 2004

CERTIFICATE OF TRANSMISSION/MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.			
Typed or printed name	Luc Bérubé, Reg. No. 55,968		
Signature		Date	September 30, 2004

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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FEE TRANSMITTAL for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 1,550

Complete if Known

Application Number	Not assigned
Filing Date	Not assigned
First Named Inventor	BEAUDRY, Pierre A.
Examiner Name	
Art Unit	
Attorney Docket No.	9-15186-21US

METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None

☒ Deposit Account:

Deposit Account Number 19-5113

Deposit Account Name Ogilvy Renault

The Director is authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☐ Credit any overpayments

☒ Charge any additional fee(s) or any underpayment of fee(s)

☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

FEE CALCULATION

1. BASIC FILING FEE

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
1001 770	2001 385	Utility filing fee	
1002 340	2002 170	Design filing fee	
1003 530	2003 265	Plant filing fee	
1004 770	2004 385	Reissue filing fee	
1005 160	2005 80	Provisional filing fee	
SUBTOTAL (1) (\$)			0

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims	Extra Claims	Fee from below	Fee Paid
18	-20** = 0	X	0
3	-3** = 0	X	0
Multiple Dependent			

<u>Large Entity</u>		<u>Small Entity</u>		<u>Fee Description</u>
Fee Code	Fee (\$)	Fee Code	Fee (\$)	
1202	18	2202	9	Claims in excess of 20
1201	86	2201	43	Independent claims in excess of 3
1203	290	2203	145	Multiple dependent claim, if not paid
1204	86	2204	43	** Reissue independent claims over original patent
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
1051 130	2051 65	Surcharge - late filing fee or oath	
1052 50	2052 25	Surcharge - late provisional filing fee or cover sheet	
1053 130	1053 130	Non-English specification	
1812 2,520	1812 2,520	For filing a request for <i>ex parte</i> reexamination	
1804 920*	1804 920*	Requesting publication of SIR prior to Examiner action	
1805 1,840*	1805 1,840*	Requesting publication of SIR after Examiner action	
1251 110	2251 55	Extension for reply within first month	
1252 420	2252 210	Extension for reply within second month	
1253 950	2253 475	Extension for reply within third month	
1254 1,480	2254 740	Extension for reply within fourth month	
1255 2,010	2255 1,005	Extension for reply within fifth month	
1401 330	2401 165	Notice of Appeal	
1402 330	2402 165	Filing a brief in support of an appeal	
1403 290	2403 145	Request for oral hearing	
1451 1,510	1451 1,510	Petition to institute a public use proceeding	
1452 110	2452 55	Petition to revive - unavoidable	1,370
1453 1,330	2453 665	Petition to revive - unintentional	
1501 1,330	2501 665	Utility issue fee (or reissue)	
1502 480	2502 240	Design issue fee	
1503 640	2503 320	Plant issue fee	
1460 130	1460 130	Petitions to the Commissioner	
1807 50	1807 50	Processing fee under 37 CFR 1.17(q)	180
1806 180	1806 180	Submission of Information Disclosure Stmt	
8021 40	8021 40	Recording each patent assignment per property (times number of properties)	
1809 770	2809 385	Filing a submission after final rejection (37 CFR 1.129(a))	
1810 770	2810 385	For each additional invention to be examined (37 CFR 1.129(b))	
1801 770	2801 385	Request for Continued Examination (RCE)	
1802 900	1802 900	Request for expedited examination of a design application	

Other fee (specify)

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$) 1,550

SUBMITTED BY

Name (Print/Type)	Luc Bérubé	Registration No. (Attorney/Agent)	55,968	Telephone	613-780-8601
Signature		Date	September 30, 2004		

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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#2

**PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT
DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number
(Optional)
9-15186-21US

First Named Inventor: BEAUDRY, Pierre A.

International (PCT) Application No.: PCT/CA02/01066

U.S. Application No.:
(if known)

Filed: July 16, 2002

Title: MULTI-WAVELENGTH IMAGING OF HIGHLY TURBID MEDIA

Attention: PCT Legal Staff
Mail Stop PCT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

The above-identified application became abandoned as to the United States because the fees and documents required by 35 U.S.C. 371(c) were not filed prior to the expiration of the time set in 37 CFR 1.494(b) or (c) or 1.495(b) or (c) as applicable. The date of abandonment is the day after the date on which the 35 U.S.C. 371(c) requirements were due. See 37 CFR 1.494(g) or 1.495(h).

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee
- (2) Proper reply
- (3) Terminal disclaimer with disclaimer fee which is required for all international applications having an international filing date before June 8, 1995; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity- fee \$ _____ (37 CFR 1.17(m)). Applicant claims small entity status.
See 37 CFR 1.27.

☒ Other than small entity - fee \$ 1,370.00 (37 CFR 1.17(m))

2. Proper reply

A. The proper reply (the missing 35 U.S.C. 371(c) requirement(s)) in the form of
entry of PCT U.S. national phase (identify type of reply):

☐ has been filed previously on _____.

☒ is enclosed herewith.

10/07/2004 GFREY1 00000054 195113 10509869

[Page 1 of 2]

01 FC:1453

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

3. Terminal disclaimer with disclaimer fee

- ☒ Since this international application has an international filing date on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. Statement. The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

September 30, 2004
Date

(613) 780-8601

Telephone Number

55,968

Registration Number, if applicable



Signature

Luc Bérubé

Typed or Printed Name

2121 Grafton Crescent, Ottawa, Ontario

Address

Canada K1J 6K7

Address

- Enclosures: ☐ Response
- ☒ Fee Payment
- ☐ Terminal Disclaimer
- ☒ National entry papers and statement.

STATEMENT SUBMITTED AS PART OF THE PETITION FOR REVIVAL UNDER 37 CFR 1.137(b) OF INTERNATIONAL APPLICATION PCT CA02/01066 FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY

I, Luc Bérubé, make the following statement :

The deadline for the US national stage entry from PCT application number CA02/01066 was unintentionally missed and this statement sets out the facts that led to the unintentional error.

A PCT application was filed, on July 16, 2002 (PCT CA02/01066) properly claiming priority of US provisional application 60/305,078 filed July 16, 2001. The filing of this provisional patent application was handled by another patent agent in my firm.

Around July 2002 the possibility of filing a regular US utility application simultaneously with the PCT application was discussed with my client, assignee Advanced Research Technology (ART) Inc. and accordingly, in anticipation of the filing, a file was opened in our computerized docketing system on July 8, 2002 with the file name "9-15186-21US" in which the "US" indicates that the file corresponds to a non-provisional US filing. This discussion and action was handled by another patent agent in my firm.

A print out of the list of the files in our docketing system for this client is provided herewith in which the above mentioned file is shown (page 2 of the print out).

Shortly thereafter, it was decided with the client that the US application would be filed as a US national phase entry from the PCT application in due course instead of simultaneously (or shortly after) with the PCT application. At this time, the file "9-15186-21US" was not deleted from the docketing by the patent agent in charge of the matter at that time.

I assumed responsibility for PCT application CA02/01066 filed on July 16, 2002 in the Fall of 2003, along with three other pending PCT applications filed in July 2002 filed in the name of the said ART.

To attest of the intention to file a regular application in the United States, the client was provided with a Declaration to be executed by the inventors. In October 2002 (and again in March 2003), a Declaration (for US filing purposes) to be signed by the inventors was sent to the client. The Declaration indicates that the application to be filed in the US is based on the PCT application, indicating the intention to file as a national stage entry in the US. Two of the inventors signed the declarations at that time, and are submitted herewith for the purposes of this national stage entry request. In view of the unintentional omission to enter the national stage in the U.S. (as will be

further explained below) no follow up to obtain signatures from the remaining inventors, who are no longer employed by the said ART, was done. We are now in the process of obtaining these signatures which will be provided as soon as they are received.

I was not aware of the intention of the client and of the previous patent agent handling PCT application CA02/01066 to file a US national stage for the present matter. I had no previous knowledge that signed inventor declarations from two of the inventors for this matter were available and not filed at the USPTO.

When I later (around January 2004) discussed with our client, the said ART, the countries to be entered as national phase from the PCT applications, I erroneously omitted seeking instructions to enter the US national stage, as I verily believed at that time that a US nonprovisional application was pending. My cursory review of our file management system indicated the existence of the corresponding 9-15186-21US file and I therefore assumed that the US case had been filed, as was the case for the other PCT patent applications filed in July 2002 for the said ART for which I assumed responsibility in the Fall of 2003. Our client, the said ART, never questioned the assumption that a U.S. nonprovisional application was pending.

This assumption and the resulting error was unintentional and by inadvertence, and did not have the purpose of causing any delay. I therefore requested that our client provide us with instructions regarding national phase entry in the EPO, Japan and Canada. I obtained instructions for those countries, and proceeded with those national phase entries of PCT application CA02/01066.

A routine verification of the client's portfolio on August 30, 2004 revealed that the US case corresponding to file "9-15186-21US" was never filed. Diligent effort has been expended since the discovery of the error to obtain instructions from our client to proceed with the reinstatement of this unintentionally abandoned US patent application and the undersigned agent for Applicant declares that the error was wholly unintentional. We hereby petition for national entry in the US through the PCT application.

02/SEP/2004
Files for:
11:42:15

File No.	Date Open	Date Close	Case Type	File Type	Country	Opened By	Status
15186	21/11/2000		P	A1	CA	venus	
15186-12USPR	03/04/2001	04/12/2001	P	A2	US	venus	
15186-15CA	11/03/2003		P	A1	CA	paular	
15186-15EP	20/04/2001		P	A5	EP	venus	
15186-15PCT	04/04/2001		P	A4	PCT	venus	
15186-15US	11/03/2003		P	A2	US	venus	
15186-16USPR	15/05/2001	07/08/2002	P	A2	US	venus	
15186-17CA	18/05/2001	01/12/2003	TF	1A	CA	venus	
15186-18CA	18/05/2001		TF	1A	CA	venus	
15186-18US	18/05/2001		TF	1B	US	venus	
15186-1US	12/10/2001		P	A2	US	venus	
15186-1USPR	21/12/2000	12/07/2002	P	A2	us	venus	
15186-20CA	18/05/2001		TF	1A	CA	venus	
15186-20CTM	18/05/2001		TF	1C	CTM	venus	
15186-20US	18/05/2001		TF	1B	US	venus	
15186-21pct	23/07/2002		P	A4	PCT	lduriau	
15186-21USPR	28/06/2001		P	A2	US	lfriend	
15186-22USPR	09/07/2001	30/07/2003	P	A2	CA	venus	
15186-23PCT	23/07/2002		P	A4	PCT	lduriau	
15186-23PCT-1	24/01/2003		P	A4	PCT	lfriend	
15186-23US	15/01/2004		P	A5	US	kiml	
15186-23USPR	09/07/2001	12/08/2002	P	A2	US	venus	
15186-24PCT	10/07/2002		P	A4	PCT	lduriau	
15186-24US	08/01/2002		P	A2	US	lmorel	
15186-24USPR	13/07/2001	06/08/2002	P	A2	US	venus	
15186-25US	24/09/2001		P	A2	US	lduriau	
15186-26USPR	12/10/2001	13/03/2003	P	A2	US	venus	
15186-27CA	06/12/2001		TF	1A	CA	venus	
15186-27US	06/12/2001		TF	1A	US	jperusse	
15186-28USPR	14/03/2002		P	A2	US	venus	
15186-2US	02/02/2001		P	A2	US	venus	
15186-32PCT	10/11/2003		P	A4	PCT	venus	
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15186-32US	11/06/2002		P	A2	US	lduriau	
15186-32USPR	25/09/2003		P	A2	US	lfriend	
15186-34PCT	07/11/2003		P	A6	PCT	jfortin	
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15186-41USPR	29/10/2002		P	A2	US	lfriend	
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15186-44	04/03/2003		P	A1	CA	kiml	
15186-45	05/03/2003		P	A1	CA	lduriau	
15186-46USPR	24/07/2003		P	A2	US	venus	
15186-47CA	14/08/2003		P	A1	CA	lduriau	
15186-48CA	01/10/2003		P	A1	CA	venus	
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15186-6US	21/03/2001		P	A2	US	venus	

02/SEP/2004
Files for:
11:42:15

ART RECHERCHES TECHNOLOGIES AVANCEES, INC. ELITE# Page 2

File No.	Date Open	Date Close	Case Type	File Type	Country	Opened By	Status
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15186-7EP	27/03/2001		P	A5	EP	venus	
15186-7FR	24/07/2001		P	A5	FR	venus	
15186-7GB	24/07/2001		P	A5	GB	venus	
15186-7IT	24/07/2001		P	A5	IT	venus	
15186-7JP	20/04/2001		P	A5	JP	venus	
15186-7NL	24/07/2001		P	A5	NL	venus	
15186-7PCT	09/05/2001		P	A4	PCT	venus	
15186-7US	07/05/2001		P	A2	US	venus	
15186-8CA	27/03/2001	14/01/2002	P	A1	CA	venus	
15186-9AU	16/07/2001	17/04/2002	P	A5	AU	venus	
15186-9CA	29/03/2001	14/01/2002	P	A1	CA	venus	
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15186-9EP	16/07/2001		P	A5	EP	venus	
15186-9JP	13/07/2001		P	A5	JP	venus	
15186-9PCT	29/03/2001		P	A4	PCT	venus	
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9-15186-51US	02/03/2004		P	A2	US	kiml	
9-15186-52US	10/05/2004		P	A2	us	kiml	

September 30, 2004



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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
U.S.A.

Sir:

Re: United States PCT National Phase Patent Application
Corresponding to PCT/CA02/01066
Title: MULTI-WAVELENGTH IMAGING OF HIGHLY
TURBID MEDIA
Inventor: BEAUDRY, Pierre A., et al.
Our File: 9-15186-21US

In connection with the above-identified PCT application, we respectfully request revival and national entry of the above-identified application in the United States of America.

Particulars of the application are as follows:

- a) International application number: PCT/CA02/01066
- b) International filing date: July 16, 2002
- c) Priority: Country: United States
Application No.: 60/305,078
Date: July 16, 2001
- d) Name of first applicant: BEAUDRY, Pierre

September 30, 2004

We enclose formal documentation, as follows:

- a) Transmittal Letter to the United States Designated/Elected Office, Form PTO-1390 (in duplicate), covering:

Basic National Fee	\$ 950.00
Surcharge for Declaration	<u>\$ 130.00</u>

Total \$ 1080.00

- b) Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally under 37 CFR 1.137(b).
- c) Fee Transmittal Form PTO/SB/17 (in duplicate) and Patent Application Fee Determination Record PTO/SB/06, covering:

Petition to Revive	\$1,370.00
Submission of Information Disclosure Stmt	<u>\$ 180.00</u>

Total Number of Claims: 18

Total \$1,550.00

- d) Combined Declaration and Power of Attorney signed by Julie Fréchette and Sonia Verreault with Patent Application Data Sheet.
- e) Information Disclosure Statement with PTO Form 1449.
- f) Copy of PCT Request.
- g) Copy of Form PCT/IB/304.
- h) Return receipt postcard.

The applicant/inventor qualifies for **large** entity status.

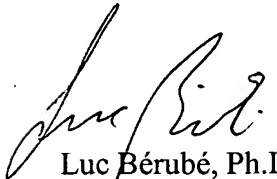
Benefit under 35 U.S.C. 119(e) is claimed of the United States provisional application No.60/305,078, filed July 16, 2001.

September 30, 2004

The Commissioner is hereby authorized to charge the fees required by this paper in the amount of **\$2,630.00**, or any additional fees which may be required, or credit any overpayment to our **Deposit Account No. 19-5113**.

Please note that the address of the agents for the applicant in this matter should be the Montreal address identified in the enclosed Application Cover Sheet. Correspondence may be directed to Luc Bérubé at the Montreal address of Ogilvy Renault.

Respectfully submitted,



Luc Bérubé, Ph.D.
Reg. No. 55,968
Agent of Record
Encls.

LB:bd